

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7289

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND EDWARD CHESTNUT, a/k/a Snoop, a/k/a Ray,

Defendant - Appellant.

No. 15-7290

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND EDWARD CHESTNUT, a/k/a Snoop, a/k/a Ray,

Defendant - Appellant.

No. 15-7376

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND EDWARD CHESTNUT, a/k/a Snoop, a/k/a Ray,
Defendant - Appellant.

Appeals from the United States District Court for the District
of South Carolina, at Florence. R. Bryan Harwell, District
Judge. (4:05-cr-01044-RBH-1)

Submitted: November 24, 2015

Decided: May 9, 2016

Before SHEDD, WYNN, and THACKER, Circuit Judges.

No. 15-7289, dismissed; No. 15-7290, vacated and remanded; No.
15-7376, affirmed by unpublished per curiam opinion.

Raymond Edward Chestnut, Appellant Pro Se. Robert Frank Daley,
Jr., Assistant United States Attorney, Columbia, South Carolina,
Arthur Bradley Parham, Assistant United States Attorney,
Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated appeals, Raymond Edward Chestnut challenges several orders entered in his criminal case. Turning first to Appeal No. 15-7289, Chestnut seeks to appeal the July 26, 2010, amended criminal judgment. In criminal cases, the defendant must file the notice of appeal within 14 days after the entry of judgment. With or without a motion, upon a showing of excusable neglect or good cause, the district court may grant an extension of up to 30 days to file a notice of appeal. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered judgment on July 26, 2010. Chestnut filed his notice of appeal five years after entry of the criminal judgment.* Because Chestnut's notice of appeal is inordinately late, we dismiss Appeal No. 15-7289.

* Chestnut's notice of appeal is dated August 4, 2010, and, in his informal brief, Chestnut alleges that he filed the notice of appeal on August 4, 2010. However, the certificate of service attached to the notice of appeal is dated August 4, 2015, the envelope was date stamped by the prison on August 10, 2015, and postmarked August 11, 2015. The notice of appeal was date stamped "received" by the district court on August 14, 2015. Chestnut's representation that he filed his notice of appeal on August 4, 2010, simply is not credible.

On July 21, 2015, the district court entered a text order denying several postjudgment motions. In Appeal No. 15-7290, Chestnut appeals from the portion of this text order denying his Motion to Vacate Sentence and Remand for Re-Sentencing ("Motion to Vacate"), which was dated June 9, 2015, and entered on the district court's docket on June 15, 2015, and from the court's August 3, 2015, text order denying Chestnut's motion for reconsideration of the denial of his Motion to Vacate. The district court denied the Motion to Vacate on the merits. However, because the motion was an unauthorized successive 28 U.S.C. § 2255 (2012) motion, the district lacked jurisdiction to consider it. 28 U.S.C. §§ 2244(a), 2255(h) (2012). Accordingly, we vacate both the portion of the July 21, 2015, text order denying the Motion to Vacate and the text order denying the motion for reconsideration, and remand with directions for the district court to dismiss the Motion to Vacate without prejudice for lack of jurisdiction.

Finally, in Appeal No. 15-7376, Chestnut appeals the portion of the district court's July 21, 2015, text order denying his Motion to Set Aside Judgement and Enter a New One. We have reviewed the record and find no reversible error. Accordingly, in Appeal No. 15-7376, we affirm on the reasoning of the district court. United States v. Chestnut, No. 4:05-cr-01044-RBH-1 (D.S.C. July 21, 2015).

Chestnut's motion for a transcript at Government expense is denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

NO. 15-7289, DISMISSED;
NO. 15-7290, VACATED AND REMANDED;
NO. 15-7376, AFFIRMED